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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) SON-3073	
	Application Number 10/567,549-Conf. #2507	Filed February 8, 2006	
	First Named Inventor Mitsutoshi Shinkai et al.		
	Art Unit 2621	Examiner D. Zhao	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>40,290</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> <div style="text-align: right;"> _____ Signature  Christopher M. Tobin Typed or printed name  <u>(202) 955-3750</u> Telephone number  <u>February 22, 2010</u> Date</div>			
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<p><input type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			



Docket No.: SON-3073  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Mitsutoshi Shinkai et al.

Application No.: 10/567,549

Confirmation No.: 2507

Filed: February 8, 2006

Art Unit: 2621

For: PLAYBACK APPARATUS, PLAYBACK  
METHOD, AND PROGRAM FOR THE SAME

Examiner: D. Zhao

**REQUEST FOR PRE-APPEAL BRIEF PANEL REVIEW OF FINAL REJECTION**

MS AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This request for Pre-Appeal Panel Review is in response to the Final Office Action dated November 28, 2009. Appellants have concurrently filed a Notice of Appeal regarding all outstanding grounds of rejection and will file an Appeal Brief in due course. However, it is anticipated that Panel Review will obviate the need for the filing of a Brief.

**I. The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter and Claim 10 has been rejected under 35 U.S.C. § 101 because the claim was directed towards non-statutory subject matter.**

Support for Applicant's "*computer readable medium*" is found in the specification, for example a "removable medium 346 including a packaged medium such as a magnetic disk, an optical disc and a DVD." (U.S. Pub. No. 2007/0009231, Specification FIG. 29, ¶¶ [0502]). Similarly and by way of example only, the "*computer readable medium*" may be "data readable from memory." (U.S. Pub. No. 2007/0009231, Specification FIG. 7, 8, 9, and 10, ¶¶ [0240], [0258], [0272], and [0288] respectively).

Applicant is not statutorily obligated to add non-transitory to claim 10, which states “[a] computer readable medium,” Further, a skilled artisan would reasonably understand that Applicant’s “*computer readable medium*” is not a signal.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection of the specification as failing to provide proper antecedent basis for the claimed subject matter in claim 10 and of the rejection of claim 10 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

**II. Claims 1 – 4, 6, and 8 – 11 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Abe et al., U.S. Patent Number 6,134,378 (*Abe*).**

Independent claim 1 recites “[a] *playback apparatus for playing back video data, comprising: an input acceptance processing unit which accepts a playback instruction indicating a playback frame; a memory which stores table information including first position information, which is absolute position information as to each frame of the video data, second position information, which is associated with the first position information as to each frame of the video data and is relative position information of the video data, and status information indicating a type of change pattern of a value of the first position information as to each frame of the video data, so that a plurality of consecutive frames with matching status information indicating the type of change pattern of the value of the first position information in the table information can be identified; identifying means for identifying the second position information, by referring to the table information, wherein the identifying means performs determination whether the first position information of the playback frame which is specified by the playback instruction exists in each status section which is grouped by the plurality of consecutive frames with matching status information, and identifies the second position information corresponding to the first position information of the playback frame which is specified by the playback instruction based on a result of the determination; and playback means for playing back the playback frame corresponding to the second position information identified by the identifying means.*”

*Abe* fails to disclose or suggest these claimed features. *Abe* arguably discloses (but not admitted) a time code management table; however, this table is limited in showing time codes and durations. (see *Abe*, FIG. 6, columns STC, FTC, S-VITC, E-VITC, and Dur). Thus as it is

understood by Applicant, the time codes in *Abe* are at most counters (or timestamps) for each frame in an audio/video file.

In contrast to *Abe*, Applicant's claimed invention pertains to "*a memory which stores table information including . . . status information indicating a type of change pattern of a value of the first position information as to each frame of the video data.*"

**I. A. *Abe* does not disclose "status information indicating a type of change pattern."**

The Applicant's claim language specifically states "status information indicating a type of change pattern," which clearly indicates that Applicants "*status information*" indicates the "*type*" of "*change pattern*" and not a counter or timestamp.

Further and purely by way of example, in FIGS. 16B, 17B, 18B, 19B, 20B, and 21B of Applicant's specification in U.S. Pub. No. 2007/0009231, the status column indicates the "type of change pattern," such as increment, increase, still, end, decrease, and over. Respectively to those figures, ¶¶ [0332], [0341], [0348], [0355], [0356], and [0363] explain that the status column is the "*status information*" of that frame.

Clearly, *Abe*'s time codes and durations, which indicate number values and timestamps, **are not** "type[s] of change pattern[s]," for example such as increment, increase, still, end, decrease, and over.

Furthermore, the Office Action fails to identify how "*status information*" in Applicant's "*table*" is analogous to *Abe*'s time codes and durations. Specifically, the Office Action and Advisory Action rely on *Abe* col.1 line 55 – col. 2 line 6, which states:

"Here, the time code newly assigned by the server device is comprised of a time code showing the head of file, and is called a start time code (hereinafter referred to merely as STC) and a time code showing relative position from the head of file is called a file time code (hereinafter referred to as FTC). In this case, as the STC, an optional value can be set by the user, but generally the time code value by which the recording start time to the server device can be known is used. Furthermore, as FTC, zero is set at the recording start time and every time a frame of the audio/video signal to be recorded changes, the value of time code sequentially counted up will be used.

Accordingly, when accessing to the frame of the desired audio/video signal out of audio/video signals combined and recorded in the file, if these STC and FTC would be shown to the server device, the frame of audio/video signal specified based on these STC and FTC can be read out.” (emphasis added).

In reliance on this section, the Office Action and Advisory Action indicate that the text **“the value of time code sequentially count[s] up”** discloses “*status information indicating a type of change pattern.*” Clearly a plain reading of this cited section shows that *Abe* uses FTCs as counters that sequentially increase as frames change during a audio/video signal.

Thus, *Abe* is completely void of any discussion and does not teach the claimed feature of “*status information indicating a type of change pattern.*”

**I. B. *Abe* does not disclose when an “*wherein the identifying means performs determination whether the first position information of the playback frame which is specified by the playback instruction exists in each status section which is grouped by the plurality of consecutive frames with matching status information.*”**

Consistent with the above distinctions, claimed features, such as “*wherein the identifying means performs determination whether the first position information of the playback frame which is specified by the playback instruction exists in each status section*” and a status section “*which is grouped by the plurality of consecutive frames with matching status information*” are neither disclosed nor suggested by *Abe*.

Specifically, because *Abe* does not disclose or suggest an equivalent of “*status information*” it does not disclose or suggest performing a “*determination*” based on the “*status section[s]*” with matching “*status information.*”

**I. C. *Abe* does not disclose when an “*and identifies the second position information corresponding to the first position information of the playback frame which is specified by the playback instruction based on a result of the determination; and playback means for playing back the playback frame corresponding to the second position information identified by the identifying means.*”**

*Abe* clearly is devoid of any discussion of and thus fails to disclose or suggest an “identifying means . . . [that] identifies the second position information corresponding to the first position information of the playback frame which is specified by the playback instruction based on a result of the determination.”

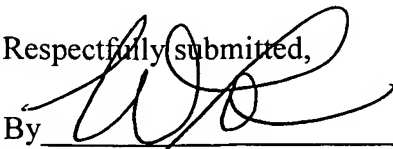
In particular, because *Abe* does not disclose or suggest an equivalent of performing a “determination” based on the “status section[s]” with matching “status information” it does not disclose or suggest identifying “second position information corresponding to the first position information of . . . based on a result of the determination.”

Because *Abe* fails to disclose, teach, or suggest various features of claim 1, a *prima facie* anticipation rejection has not been established, and withdrawal of this rejection is respectfully requested. See, e.g., *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference”). See also *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1566 (Fed. Cir. 1989). (“The identical invention must be shown in as complete detail as is contained in the . . . claim.”).

For reasons similar to those provided for claim 1, independent claims 9 and 10 are also neither disclosed by *Abe*. The dependent claims are also distinct for their incorporation of the features respectively recited in the independent claims as well as for their own, separately recited patentably distinct features.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1 – 4, 6, and 8 – 11 under 35 U.S.C. § 102(b) as being anticipated by *Abe*. If any further issues remain, the Examiner is invited to telephone the undersigned to resolve them.

Dated: February 22, 2010

Respectfully submitted,  
  
By \_\_\_\_\_  
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